

24.04.2023
Court No. 19
Item 105
CP

W.P.A. No. 14298 of 2022

Ajit Kumar Naskar & anr.

Vs.

The State of West Bengal & Ors.

Mr. Debabrata Sarder
Mr. Mrinal Kanti Maitra

...for the petitioner.

Mr. Susanta Pal
Ms. Susnita Saha

.....for the State.

Despite service, none appears on behalf of the respondent nos. 5 and 7.

As this court is not inclined to pass any mandatory directions as prayed for, but deems it fit to relegate the matter to the permission granting authority, this writ petition is taken up in their absence.

The petitioners allege unauthorized construction on L.R. Plot No. 2147 of Mouza – Magrahat, J. L. No. 148 within the jurisdiction of Magrahat East Gram Panchayat.

Mr. Pal, learned advocate for the State respondents, has submitted a list of documents before this court. The Block Land & Land Reforms Officer, Magrahat-II Block, intimated that the land being L.R. Plot No. 2147 of Mouza – Magrahat is a

sali land. The L.R. record of rights have been produced, which indicate that the contention of the petitioners is correct. The Block Development Officer, Magrahat-II Block has also filed some documents through the learned advocate.

It appears that the Pradhan of Magrahat East Gram Panchayat had made an enquiry and was of the opinion that the structure was being raised without any permission from the gram panchayat. The pradhan has already issued a notice asking the respondent no. 7 to stop the alleged construction.

Without going into the merits of the allegations of the petitioner, the writ petition is disposed of with a direction upon the Magrahat East Gram Panchayat to act and proceed on the basis of the complaint and the alleged findings, in accordance with law. The findings of the panchayat and the Block Development Officer which have been placed before this court are preliminary and this court is of the view that the authorities must dispose of the matter by adhering to the procedure stated hereinbelow:

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioners and the respondent no. 7. An advance notice of the inspection shall be served upon the petitioners and the respondent no. 7 and on all other interested

parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.

- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.
- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties.
- e) A hearing shall be given to the petitioners and the respondent no. 7. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and

during inspection, the proceedings shall be reached to its logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act.

The court has not gone into the merits of the claims.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

The disputes with regard to title, possession and boundary etc., shall not be decided by the panchayat authorities.

A copy of the writ petition along with a server copy of this order be served upon the concerned gram panchayat for necessary compliance of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)